

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TALECRIS BIOTHERAPEUTICS, INC., and)
BAYER HEALTHCARE LLC,)

Plaintiffs,)

v.)

BAXTER INTERNATIONAL INC., and)
BAXTER HEALTHCARE CORPORATION,)

Defendants.)

C.A. No. 05-349-GMS

Jury Trial Demanded

REDACTED VERSION DI 257

BAXTER HEALTHCARE CORPORATION,)

Counterclaimant,)

v.)

TALECRIS BIOTHERAPEUTICS, INC., and)
BAYER HEALTHCARE LLC,)

Counterdefendants.)

**PLAINTIFFS' MOTION *IN LIMINE* NO. 3 TO EXCLUDE
EXPERT TESTIMONY OF THOMAS J. KINDT, Ph.D.
THAT IS INCONSISTENT WITH THE COURT'S CLAIM CONSTRUCTION**

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Bayer Healthcare LLC*

Redacted Version Filed: April 30, 2007
Date: April 23, 2007

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Plaintiffs and Counterclaim Defendants Talecris Biotherapeutics, Inc. and Bayer Healthcare LLC ("Plaintiffs") hereby move *in limine*, pursuant to Federal Rule of Evidence 702, to preclude Defendants Baxter International Inc. and Baxter Healthcare Corporation ("Baxter") from calling their expert Thomas J. Kindt, Ph.D. at trial to testify in any manner that is inconsistent with the Court's December 28, 2006 Order on claim construction. A proposed form of Order is attached hereto as Exhibit A.

For the reasons set forth in Plaintiffs' Memorandum of Law submitted contemporaneously herewith, Plaintiffs respectfully request that the Court enter an Order granting their Motion *In Limine* No. 3.

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Date: April 23, 2007

Respectfully submitted,

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536069

/s/ Jeffrey B. Bove
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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TALECRIS BIOTHERAPEUTICS, INC., and
BAYER HEALTHCARE LLC,

Plaintiffs,

v.

BAXTER INTERNATIONAL INC., and
BAXTER HEALTHCARE CORPORATION,

Defendants.

C.A. No. 05-349-GMS

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BAXTER HEALTHCARE CORPORATION,

Counterclaimant,

v.

TALECRIS BIOTHERAPEUTICS, INC., and
BAYER HEALTHCARE LLC,

Counterdefendants.

[PROPOSED] ORDER

AND NOW, this ____ day of _____, 2007, upon consideration of
Plaintiffs' Motion *In Limine* No. 3 to Exclude Expert Testimony of Thomas J. Kindt,
Ph.D. That is Inconsistent With the Court's Claim Construction, it is hereby ORDERED
that said Motion is GRANTED.

U.S. District Court Judge Gregory M. Sleet

CERTIFICATE OF SERVICE

I hereby certify on this 23rd day of April, 2007 I electronically filed the foregoing **Plaintiffs' Motion *In Limine* No. 3 to Exclude Expert Testimony of Thomas J. Kindt, Ph.D. That is Inconsistent With the Court's Claim Construction** with the Clerk of Court using CM/ECF which will send notification of such filing to the following:

Philip A. Rovner, Esquire Potter Anderson & Corroon LLP Hercules Plaza P. O. Box 951 Wilmington, DE 19899 (302) 984-6140 provner@potteranderson.com	Susan Spaeth, Esquire Townsend and Townsend and Crew LLP 379 Lytton Avenue Palo Alto, CA 94301-1431 (415) 576-0200 smspaeth@townsend.com
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I also hereby certify that a true copy of the foregoing document was served upon the following in the manner indicated on April 23, 2007.

<u>Via Hand Delivery and E-Mail</u> Philip A. Rovner, Esquire Potter Anderson & Corroon LLP Hercules Plaza P. O. Box 951 Wilmington, DE 19899 (302) 984-6140 provner@potteranderson.com	<u>Via Federal Express and E-Mail</u> Susan Spaeth, Esquire Townsend and Townsend and Crew LLP 379 Lytton Avenue Palo Alto, CA 94301-1431 (415) 576-0200 smspaeth@townsend.com
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